

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7546

BILL NUMBER: HB 1776

NOTE PREPARED: Feb 17, 2005

BILL AMENDED: Feb 15, 2005

SUBJECT: Seizing Weapons from a Mentally Ill Individual.

FIRST AUTHOR: Rep. Buell

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill permits a law enforcement officer to seize a firearm possessed by an individual whom the officer reasonably believes to be dangerous. The bill requires the firearm to be returned to the individual within 14 days unless a court finds that the individual is dangerous and that retention of the firearm by the law enforcement agency is appropriate. It permits a court to issue a search warrant for a firearm possessed by an individual believed to be dangerous. It also permits a person from whom a firearm has been seized and ordered retained to petition a court for return of the firearm after 180 days. The bill authorizes a court to order a firearm retained by a law enforcement agency to be destroyed or otherwise disposed of after five years. It makes conforming amendments.

Effective Date: July 1, 2005.

Explanation of State Expenditures: (Revised) This bill would allow a law enforcement officer to (1) charge an individual with an offense, or (2) apply for a warrant to seize a firearm possessed by an individual, if the officer reasonably believes the individual to be dangerous. The court then maintains possession of the firearm until (a) the court orders the firearm be given back to the owner or (b) five years passes. A person may petition the court for return of their weapon 180 days after the date a court orders a law enforcement agency to retain their firearm. If the court denies the individual's petition, the individual may not file a subsequent petition until at least 180 days after the date on which the court denied the petition. The fiscal impact of this bill is minimal.

Increased Court Time: This bill could increase court time, however, any additional court time is likely minimal. The Indiana Prosecuting Attorneys Council reports that prosecuting a person under the requirements of this bill would seldom happen. Furthermore, if the person were participating in commitment procedures, both issues

would be addressed at the same hearing resulting in no increase in court time.

Any increase in court time is dependent on the number of persons falling under the requirements of this bill that are not also participating in commitment procedures. Any increase in expenditures is likely minimal.

Weapons Storage: The bill requires the law enforcement agency which conducted the seizure to hold the weapon for a period of time not to exceed 5 years. Following this, the weapon is ordered to be destroyed or otherwise permanently disposed of. Current statute requires that seized weapons be destroyed through (a) public sale, (b) destruction, or (c) release to the State Police Department laboratory or forensic laboratory for research. The actual amount of time that the weapon is stored is dependent on whether or not the court finds that the owner is mentally ill and dangerous and so said weapon should not be returned, or the owner attempts to petition the court to return the weapon themselves and the court accepts the petition. The Indiana State Police reports that any increase in expenditures for storage of weapons is likely small.

Explanation of State Revenues: (Revised) *Court Fee Revenue:* If additional civil actions occur, revenue to the state General Fund may increase if court fees are collected. A civil filing fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

Explanation of Local Expenditures: See *Explanation of State Expenditures*.

Explanation of Local Revenues: (Revised) *Court Fee Revenue:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 filing fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund.

State Agencies Affected: Family and Social Services Administration, Local Law Enforcement Agencies, Indiana State Police, Department of Corrections, Trial Courts.

Local Agencies Affected:

Information Sources: Steve Johnson, Indiana Prosecuting Attorneys Council, 232-1836; Mike Eslinger, Indiana Sheriffs' Association, 356-3633.

Fiscal Analyst: Sarah Brooks, 317-232-9559.